

In re: Dennis and Stacy Farber
Case No. 05-29974

The Creditor moved to dismiss the case for bad faith filing under §1307(c). The Court granted the motion applying the factors delineated in *In re: Kitchens*, 702 F.2d 885 (11th Cir. 1983). The Court determined that it was proper to apply the *Kitchens* test in this situation. The Court examined the following *Kitchens* factors: (i) the motivations of the debtor; (ii) the number of times the debtors had filed a petition; (iii) the type of debt the debtors sought to discharge and; (iv) the accuracy of the filings of the debtors. The Court also looked at a new non-*Kitchens* factor, the timing of the petition. It determined that the filing of a petition on October 16, 2005, the day before the effective date of BAPCPA, was an indicator of bad faith.